

REGISTER

South Dakota Legislative Research Council



Volume 31

Monday, 8:00 a.m., April 11, 2005

NOTICES OF PROPOSED RULES: (The date in parentheses is the date the rules were filed in the Legislative Research Council.)

Department of Revenue and Regulation: South Dakota Lottery Commission: (April 4, 2005) has filed rules that provide a process to have a video lottery machine declared obsolete and to remove the responsibility of licensees from having to provide associated equipment for a machine declared obsolete, and to allow video lottery operators to purchase non-critical associated equipment from sources not otherwise licensed by the Lottery. The general authority for these rules, as cited by the commission, is SDCL 42-7A-21.

A public hearing will be held at the State Capitol, 500 East Capitol Avenue, Room 412, Pierre, South Dakota, on April 29, 2005, at 10:30 a.m. Copies of the proposed rules may be obtained from and written comments sent to the Department of Revenue & Regulation, Legal Division/Rules, 445 East Capitol Avenue, Pierre, South Dakota 57501, or by emailing Beth.Christie@state.sd.us. Copies of the rules are also available at the department's website: www.state.sd.us/drr. Written comments must be received by April 28, 2005, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-4701 at least forty-eight hours before the hearing.

Department of Health: (April 5, 2005) has filed rules that will determine the application requirements for certified and informational copies of a vital record, acceptable proof of identity and the security features required on a certified or informational copy and adopt rules

that will establish the requirements for a delayed certificate of marriage. The general authority for these rules, as cited by the department, is SDCL 34-25-18, 34-25-42, 34-25-44, 34-25-51, and 34-25-52.

A public hearing will be held in the Health Laboratory Building conference room, 615 East Fourth Street, Pierre, South Dakota, on May 2, 2005, at 10:00 a.m. to consider the adoption and amendment of proposed rules. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Department of Health, Attn: Colleen Kozel, 600 East Capitol Avenue, Pierre, South Dakota 57501. Copies of the proposed rules may also be obtained at the Health Department website:

<http://www.state.sd.us/doh/News/index.htm>.

Material sent by mail must reach the department by May 12, 2005, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-3361 at least 48 hours before the hearing.

Secretary of State: Board of Elections:

(April 6, 2005) intends to amend rules to bring the petition to increase or decrease the number of county commissioners, confirmation mailing notice, voter registration form and instructions into compliance with statutory changes, set up guidelines for statutory change on acceptance of facsimile absentee ballot applications from UOCAVA voters, set up criteria for approving electronic ballot marking systems, set up parameters for voter registration verification with social security administration records, provide additional information on the provisional ballot envelope, provide agencies

with a larger size voter registration, declination and instruction form to use. The general authority for these rules, as cited by the office, is SDCL 12-1-9, 12-4-5.5, 12-4-35, 12-17B-17, and 12-18-40.

A public hearing will be held in Room 413, State Capitol, Pierre, South Dakota, on May 13, 2005, at 8:30 a.m. Copies of the proposed rules may be obtained without charge from and written comments sent to the Secretary of State, Election Department, 500 East Capitol, Pierre, South Dakota 57501 or the proposed rules may be obtained at www.sdsos.gov/boe.htm. Written comments must be received on or before May 12, 2005, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the office can make arrangements are asked to call (605) 773-3537 at least 48 hours before the hearing.

Department of Social Services: Office of Energy Assistance: (April 7, 2005) intends to adopt rules that will amend the definition of "congregate living arrangement"; delete the requirement that a household must be directly affected by increased heating costs; specify that the designated head of the household for a congregate living unit is responsible for producing the information necessary to determine the household's eligibility; no longer require the household to produce a statement from the landlord that the household's rent has increased or is due to be increased because of heating costs; for non-self-employed households that do not qualify for LIEAP due to excess income, discontinue the practice of using an alternative method of calculating the household's income; for self-employed household's that do not qualify due to excess income but have experienced a change in circumstances, base the household's income on anticipated, rather than prior, income; consolidate the types of income excluded when computing a household's income; clarify that the exclusion of cash gifts are limited to cash received for recurring occasions such as

birthdays and Christmas; when computing income for a self-employed household, include any net profit or loss and consider the household's income to be \$0 if the self-employment income calculations result in a loss; when establishing the benefit levels for eligible households, include the amount of funds available but no longer include the average cost to heat an 850 square foot house; change the deadline for determining eligibility to specify that the Department has 60 days after an application is received rather than 60 days from the date of the application; clarify that LIEAP funds may only be used to pay for unpaid energy bills; and clarify that a claim for energy assistance must be postmarked on or before May 15 in order to be considered. The general authority for these rules, as cited by the department, is SDCL 28-1-50.

A public hearing will be held in the Department of Social Services Conference Room, First Floor, Kneip Office Building, 700 Governors Drive, Pierre, South Dakota, on Friday, April 29, 2005, at 9:00 a.m. Copies of the proposed rules may be obtained from and written comments sent to Jill Wellhouse, Administrative Rules, Department of Social Services, 700 Governors Drive, Pierre, South Dakota 57501. Ms. Wellhouse may be contacted by telephone at (605) 773-3305. Written comments must be received by May 9, 2005, to be considered. Individuals intending to present oral testimony at the hearing must make a written copy of their testimony available to the department at the time of the hearing. The testimony must relate directly to the changes being proposed and must cite the specific rule number to which the comments are being directed. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-3305 at least 48 hours before the hearing.

Department of Transportation: (April 8, 2005) intends to adopt rules to establish terms and conditions under which utilities may use property that has been acquired by the department for relocation of utilities displaced as a result of a highway construction project. The general authority for these rules, as cited by the department, is SDCL 31-19-1.1.

A public hearing will be held in the commission room of the Becker-Hansen Building, 700 E. Broadway Avenue in Pierre, South Dakota, on April 28, 2005, at 9:05 a.m. CDST. Copies of the proposed rule may be obtained without charge from and written comments sent to the Secretary of Transportation, Becker-Hansen Building, 700 East Broadway Avenue, Pierre, South Dakota 57501-2586. Material sent by mail must reach the department by April 27, 2005, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-3265 at least 48 hours before the hearing.

Department of Labor: Division of Labor and Management: (April 8, 2005) is proposing to update the workers' compensation fee schedule. The general authority for these rules, as cited by the department, is SDCL 62-7-8.

A public hearing will be held in the State

Library, 800 Governors Drive, Conference Room, Pierre, South Dakota, on May 10, 2005, at 10:00 a.m., CDT. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Department of Labor, Division of Labor and Management, Kneip Building, 700 Governors Drive, Pierre, South Dakota 57501-2291. Material sent by mail must be received by May 10, 2005, to be considered. Persons who have special needs for which the division can make arrangements are asked to call (605) 773-6804 before the hearing.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

Executive Appointment:

Kevin Forsch, Pierre, was appointed on March 21, 2005, to the **South Dakota Commission on Health Care**, effective immediately and shall continue until July 1, 2007.

Note: A copy of the rules may be obtained directly from the above agencies. Write to the agency at the address given under "Notices of Proposed Rules." There is no charge for proposed rules. The following agencies have permission from the Interim Rules Review Committee to charge for adopted rules: the Division of Insurance, the Cosmetology Commission, the State Board of Examiners in Optometry, the State Plumbing Commission, the Board of Nursing, the Department of Social Services, the State Electrical Commission, the South Dakota Board of Pharmacy, the Real Estate Commission, the Gaming Commission, the Department of Revenue and Regulation, and the Department of Labor for Article 47:03.

REMINDER OF HEARINGS SCHEDULED

4-14-2005	Agriculture: Weed and Pest Commission	Amend a rule that will add Salt Cedar (<i>Tamarix ramosissima</i>) and remove Field Bindweed from the statewide noxious weed list; 31 SDR 133.
4-14-2005	Labor: Retirement System	Amend the election provisions, adopt a procedure for filling vacancies on the Board of Trustees, and adopt definitions, internal administrative procedures and required provisions of federal law in regard to the South Dakota Retirement System Special Pay Program; 31 SDR 143.

4-21-2005	Social Services: Medical Services	Adopt rules that will exempt certain additional medical services from cost sharing, including inpatient psychiatric and rehabilitation services and prescriptions filled or refilled with generic drugs; increase the amount of a recipient's cost share for certain physician, dental, podiatry, optometric, optical, and chiropractic services; increase the cost share amount for prescriptions filled or refilled with a brand-name drug; increase the cost-share for visits to a federally qualified health center (FQHC) or a rural health clinic (RHC); increase the cost-share for certain early and periodic screening, diagnosis, and treatment (EPSDT) services provided to individuals 19 years of age and over; for individuals 19 years of age and over who receive services under the EPSDT Program, establish a cost share for prescriptions filled with brand-name drugs; establish a cost share for non-emergency inpatient hospital services; increase the cost share for mental health services provided by independent mental health practitioners; and increase the cost share for services provided under the diabetes education program; 31 SDR 147.
4-26-2005	Labor: Division of Labor and Management (This hearing has been rescheduled to May 10, 2005.)	Update the Workers' Compensation Fee Schedule; 31 SDR 137.
4-26-2005	Agriculture: Animal Industry Board	Amend a rule to update the vaccinology related to rabies in dogs and to include cats in the importation requirements dealing with rabies; to control the spread of and eliminate trichomoniasis from cattle through restricting the sale, loan, lease, or importation of animals presenting the highest risk for this disease; place into regulation identification and record-keeping requirements for sheep and goat producers consistent with those the industry had enacted voluntarily in recent years in order to uniformly market their animals in efforts to control Scrapie, a transmissible spongiform encephalopathy of sheep and goats; 31 SDR 144.
4-28-2005	Transportation	Adopt rules for utility corridor management for relocation of utilities displaced as a result of a highway construction project; 31 SDR 153.

4-29-2005	Labor: Board of Accountancy	Amend a rule that will allow the board to collect the fees associated with the computerized Uniform CPA Examination from candidates, to be paid to the third party providers upon receipt of their services; 31 SDR 137.
4-29-2005	Revenue and Regulation: Lottery Commission	Adopt rules that provide a process to have a video lottery machine declared obsolete and to remove the responsibility of licensees from having to provide associated equipment for a machine declared obsolete, and to allow video lottery operators to purchase non-critical associated equipment from sources not otherwise licensed by the Lottery; 31 SDR 151.
4-29-2005	Social Services: Energy Assistance	Amend rules that will amend the definition of "congregate living arrangement"; delete the requirement that a household must be directly affected by increased heating costs; specify that the designated head of the household for a congregate living unit is responsible for producing the information necessary to determine the household's eligibility; no longer require the household to produce a statement from the landlord that the household's rent has increased or is due to be increased because of heating costs; for non-self-employed households that do not qualify for LIEAP due to excess income, discontinue the practice of using an alternative method of calculating the household's income; for self-employed household's that do not qualify due to excess income but have experienced a change in circumstances, base the household's income on anticipated, rather than prior, income; consolidate the types of income excluded when computing a household's income; clarify that the exclusion of cash gifts are limited to cash received for recurring occasions such as birthdays and Christmas; when computing income for a self-employed household, include any net profit or loss and consider the household's income to be \$0 if the self-employment income calculations result in a loss; when establishing the benefit levels for eligible households, include the amount of funds available but no longer include the average cost to heat an 850 square foot house;

		change the deadline for determining eligibility to specify that the Department has 60 days after an application is received rather than 60 days from the date of the application; clarify that LIEAP funds may only be used to pay for unpaid energy bills; and clarify that a claim for energy assistance must be postmarked on or before May 15 in order to be considered; 31 SDR 152.
5-2-2005	Health	Adopt and amend rules to determine the application requirements for certified and informational copies of a vital record, acceptable proof of identity and the security features required on a certified or informational copy and adopt rules that will establish the requirements for a delayed certificate of marriage; 31 SDR 151.
5-10-2005	Labor: Division of Labor and Management	Update the Workers' Compensation Fee Schedule; 31 SDR 153.
5-13-2005	Secretary of State: Board of Elections	Amend rules to bring the petition to increase or decrease the number of county commissioners, confirmation mailing notice, voter registration form and instructions into compliance with statutory changes, set up guidelines for statutory change on acceptance of facsimile absentee ballot applications from UOCAVA voters, set up criteria for approving electronic ballot marking systems, set up parameters for voter registration verification with social security administration records, provide additional information on the provisional ballot envelope, provide agencies with a larger size voter registration, declination and instruction form to use; 31 SDR 151.

Rules Review Committee Meetings

The next meeting of the Interim Rules Review Committee will be held Tuesday, April 19, 2005, in Room 413 of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2005 interim: May 17, June 14, August 9, September 20, October 18, December 6, and January 9, 2006.

Note: An updated version of the Administrative Rules Guide to Form and Style is available at the LRC office and on the LRC web site.

The **South Dakota Register**, ISSN 0191-1104, is published by the South Dakota Legislative Research Council pursuant to SDCL 1-26A-1. Subscriptions to Volume 31 are \$20. Make checks payable to "State of South Dakota" and mail to the Legislative Research Council, State Capitol, 500 East Capitol Avenue, Pierre, South Dakota 57501-5070. Information from the Register is available free of charge on the Internet at <http://legis.state.sd.us>. Subscribe to receive electronic notification of the availability of the **South Dakota Register** at MyLRC (<http://legis.state.sd.us/mylrc/index.cfm>).